

SENATE BILL 2935

By Norris

AN ACT to amend Tennessee Code Annotated Title 37, Chapter 1, Part 1; Title 37, Chapter 1, Part 4 and Title 37, Chapter 1 and Part 6 relative to juvenile courts and proceedings, child abuse and child sexual abuse.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-1-102 is amended by deleting the entire section and substituting instead the following:

37-1-102 Definitions.

(a) As used in §§ 8-7-109, 49-7-117 and this chapter, any reference to the department of correction is construed to mean the department of children's services, unless the reference is clearly intended to designate the department of correction.

(b) As used in this part, unless the context otherwise requires:

(1) "Abuse" exists when a person under the age of eighteen (18) is suffering from, has sustained, or may be in immediate danger of suffering from or sustaining a wound, injury, disability or physical or mental condition caused by brutality, neglect or other actions or inactions of a parent, relative, guardian or caretaker.

(2) "Administrative hearing" is an action by the judge or referee of the juvenile court in conformity with legislative intent in terminating the home placement of a juvenile;

(3) "Adult" means any person eighteen (18) years of age or older;

(4) "Child" means:

(A) A person under eighteen (18) years of age; or

(B) A person under nineteen (19) years of age for the limited purpose of:

(i) Remaining under the continuing jurisdiction of the juvenile court to enforce a non-custodial order of disposition entered prior to the person's eighteenth birthday; or

(ii) Remaining under the jurisdiction of the juvenile court for the purpose of being committed, or completing commitment including completion of home placement supervision, to the department of children's services with such commitment based on an adjudication of delinquency for an offense that occurred prior to the person's eighteenth birthday; or

(iii) Remaining under the jurisdiction of the juvenile court for resolution of delinquent offense or offenses committed prior to a person's eighteenth birthday but considered by the juvenile court after a person's eighteenth birthday with the court having the option of retaining jurisdiction for adjudication and disposition or transferring the person to criminal court under § 37-1-134.

(C) In no event shall a person eighteen (18) years of age or older be committed to or remain in the custody of the department of children's services by virtue of being adjudicated dependent and neglected, unruly or in need of services pursuant to § 37-1-175 except as provided in § 37-1-173.

(D) This provision shall in no way be construed as limiting the court's jurisdiction to transfer a person to criminal court under § 37-1-134.

(E) A person eighteen (18) years of age is legally an adult for all other purposes including, but not limited to, enforcement of the court's orders under this subsection through its contempt power under § 37-1-158.

(F) No exception shall be made for a child who may be emancipated by marriage or otherwise.

(5) "Child care agency" is as defined in §§ 71-3-501 and 37-5-501;

(6) "Child protection team" means the investigation team created by § 37-1-406;

(7) "Child sexual abuse" means:

(A) The commission of any act involving the unlawful sexual abuse, molestation, fondling or carnal knowledge of a child under thirteen (13) years of age that prior to November 1, 1989, constituted the criminal offense of:

(i) Aggravated rape under § 39-2-603 [repealed];

(ii) Aggravated sexual battery under § 39-2-606 [repealed];

(iii) Assault with intent to commit rape or attempt to commit rape or sexual battery under § 39-2-608 [repealed];

(iv) Begetting child on wife's sister under § 39-4-307 [repealed];

(v) Crimes against nature under § 39-2-612 [repealed];

(vi) Incest under § 39-4-306 [repealed];

(vii) Promotion of performance including sexual conduct by minor under § 39-6-1138 [repealed];

(viii) Rape under § 39-2-604 [repealed];

(ix) Sexual battery under § 39-2-607 [repealed];

(x) Use of minor for obscene purposes under § 39-6-1137 [repealed]; or

(B) "Child sexual abuse" also means the commission of any act involving the unlawful sexual abuse, molestation, fondling or carnal knowledge of a child under thirteen (13) years of age that on or after November 1, 1989, constituted the criminal offense of:

(i) Aggravated rape under § 39-13-502;

(ii) Aggravated sexual battery under § 39-13-504;

- (iii) Aggravated sexual exploitation of a minor under § 39-17-1004;
- (iv) Criminal attempt as provided in § 39-12-101 for any of the offenses listed above;
- (v) Especially aggravated sexual exploitation of a minor under § 39-17-1005;
- (vi) Incest under § 39-15-302;
- (vii) Rape under § 39-13-503;
- (viii) Sexual battery under § 39-13-505;
- (ix) Sexual exploitation of a minor under § 39-17-1003; or
- (C) "Child sexual abuse" also means one (1) or more of the following acts:
 - (i) Any penetration, however slight, of the vagina or anal opening of one (1) person by the penis of another person, whether or not there is the emission of semen;
 - (ii) Any contact between the genitals or anal opening of one (1) person and the mouth or tongue of another person;
 - (iii) Any intrusion by one (1) person into the genitals or anal opening of another person, including the use of any object for this purpose, except that it shall not include acts intended for a valid medical purpose;
 - (iv) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that it shall not include:
 - (a) Acts which may reasonably be construed to be normal caretaker responsibilities, interactions with, or affection for a child; or
 - (b) Acts intended for a valid medical purpose;
 - (v) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose;
 - (vi) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:
 - (a) Solicit for or engage in prostitution; or
 - (b) Engage in an act prohibited by § 39-17-1003; or
- (D) For the purposes of the reporting, investigation, and treatment provisions of this chapter, "child sexual abuse" also means the commission of any act specified in subdivisions (b)(6)(A)-(C) against a child thirteen (13) years of age through seventeen (17) years of age if such act is committed against the child by a parent, guardian, relative, person residing in the child's home, or other person responsible for the care and custody of the child;
- (8) "Commissioner" means commissioner of the department of children's services.
- (9) "Court order" means any order or decree of a judge, referee or court of competent jurisdiction. A "valid court order" is one which is authorized by law, and any order entered in the minutes of a court of record are presumed to be valid;

(10) "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom temporary legal custody of the child has been given by order of a court;

(11) "Custody" means the control of actual physical care of the child and includes the right and responsibility to provide for the physical, mental, moral and emotional well-being of the child. "Custody," as herein defined, relates to those rights and responsibilities as exercised either by the parents or by a person or organization granted custody by a court of competent jurisdiction. "Custody" shall not be construed as the termination of parental rights set forth in § 37-1-147.

"Custody" does not exist by virtue of mere physical possession of the child;

(12) "Delinquent act" means an act designated a crime under the law, including local ordinances of this state, or of another state if the act occurred in that state, or under federal law, and the crime is not a status offense under subdivision (b)(23)(A)(iii) and the crime is not a traffic offense as defined in the traffic code of the state other than failing to stop when involved in an accident pursuant to § 55-10-101, driving while under the influence of an intoxicant or drug, vehicular homicide or any other traffic offense classified as a felony;

(13) "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation;

(14) "Department" means the department of children's services.

(15) "Dependent and neglected child" means a child:

(A) Who is without a parent, guardian or legal custodian;

(B) Whose parent, guardian or person with whom the child lives, by reason of cruelty, mental incapacity, immorality or depravity is unfit to properly care for such child;

(C) Who is under unlawful or improper care, supervision, custody or restraint by any person, corporation, agency, association, institution, society or other organization or who is unlawfully kept out of school;

(D) Whose parent, guardian or custodian neglects or refuses to provide necessary medical, surgical, institutional or hospital care for such child;

(E) Who, because of lack of proper supervision, is found in any place the existence of which is in violation of law;

(F) Who is in such condition of want or suffering or is under such improper guardianship or control as to injure or endanger the morals or health of such child or others;

(G) Who is suffering from abuse or neglect;

(H) Who has been in the care and control of an agency or person who is not related to such child by blood or marriage for a continuous period of eighteen (18) months or longer in the absence of a court order, and such person or agency has not initiated judicial proceedings seeking either legal custody or adoption of the child; or

(I) Who is or has been allowed, encouraged or permitted to engage in prostitution or obscene or pornographic photographing, filming, posing, or similar activity and whose parent, guardian or other custodian neglects or refuses to protect such child from further such activity;

(16) "Detention" means confinement in a secure or closed type of facility which is under the direction or supervision of the court or a facility which is designated by the court or other authority as a place of confinement for juveniles;

(17) "Discharge" means the termination of the custody, control and supervision of a delinquent child by the department of children's services;

(18) "Guardian ad litem" means a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, who shall be a party to any judicial proceeding as a representative of the child, and who shall serve until discharged by the court;

(19) "Home placement" means placement of a delinquent child in the home of a parent or guardian under the continuing supervision of the department of children's services. Placing a child on home placement terminates the department's legal custody of a delinquent child

(20) "Institutional child abuse" means situations of known or suspected child abuse, including child sexual abuse, in which the person allegedly perpetrating the child abuse is an employee of a public or private child care agency, public or private school, or any other person responsible for the child's care;

(21) "Juvenile court" means the general sessions court in all counties of this state except in those counties and municipalities in which special juvenile courts are provided by law, and "judge" means judge of the juvenile court;

(22) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;

(23) "Nonjudicial days" means Saturdays, Sundays and legal holidays. Nonjudicial days begin at four thirty p.m. (4:30 p.m.) on the day preceding a weekend or holiday, and end at eight o'clock a.m. (8:00 a.m.) on the day after a weekend or holiday;

(24) "Other person responsible for a child's care or welfare" includes, but is not limited to, the child's legal guardian, legal custodian, or foster parent; an employee of a public or private child care agency, public or private school; or any other person legally responsible for the child's welfare in a residential setting;

(25) "Probation" means casework service as directed by the court, as a measure for the protection, guidance and well being of the child and such child's family. Probation methods shall be directed to the discovery and correction of the basic causes of maladjustment;

(26) "Protective supervision" means supervision ordered by the court of children found to be dependent or neglected or unruly;

(27) "Report of harm" means a report filed under § 37-1-402.

(28) "Restitution" means compensation which is accomplished through actual monetary payment to the victim of the offense by the child who committed the offense, or symbolically, through unpaid community service work by the child, for property damage or loss incurred as a result of the delinquent offense;

(29) "Severe child abuse" means:

(A) The knowing exposure of a child to or the knowing failure to protect a child from abuse or neglect that is likely to cause great bodily harm or death and the knowing use of force on a child that is likely to cause great bodily harm or death;

(B) Specific brutality, abuse or neglect towards a child which in the opinion of qualified experts has caused or will reasonably be expected to produce severe psychosis, severe neurotic disorder, severe depression, severe developmental delay or retardation, or severe impairment of the child's ability to function adequately in the child's environment, and the knowing failure to protect a child from such conduct; or

(C) The commission of any act towards the child prohibited by §§ 39-13- 502 -- 39-13-504, 39-13-522, 39-15-302, and 39-17-1005 or the knowing failure to protect the child from the commission of any such act towards the child;

(30) "Shelter care" means temporary care of a child in physically unrestricted facilities; and

(31)(A) "Unruly child" means a child in need of treatment and rehabilitation who:

(i) Habitually and without justification is truant from school while subject to compulsory school attendance under § 49-6-3007; or

(ii) Habitually is disobedient of the reasonable and lawful commands of the child's parent(s), guardian or other legal custodian to the degree that such child's health and safety are endangered; or

(iii) Commits an offense which is applicable only to a child; or

(iv) Is away from the home, residence or any other residential placement of the child's parent(s), guardian or other legal custodian without their consent.

Such child shall be known and defined as a "runaway."

(B) The above definition shall be effective July 1, 1996, before which date the definition of "unruly" shall be the definition found in § 37-1- 102(b)(21), 1995 Supp.

(c) Harm to a child's health or welfare can occur when the parent or other person responsible for the child's welfare:

(1) Commits, or allows to be committed, child abuse, including child sexual abuse as defined in subdivisions (b)(1),(6), (15), (20), (22), or (29); or

(2) Exploits a child under eighteen (18) years of age, or allows such child to be exploited, as provided in §§ 39-17-1003 -- 39-17-1005.

SECTION 2. Tennessee Code Annotated, Title 37, Chapter 1, Part 4 is amended by deleting the entire part and substituting instead the following:

37-1-401 Purpose and construction of part.

(a) The purpose of this part is to protect children whose physical or mental health and welfare are adversely affected by brutality, abuse or neglect by requiring reporting of suspected cases by any person having cause to believe that such case exists. It is intended that, as a result of such reports, the protective services of the state shall be brought to bear on the situation to prevent further abuses, to safeguard and enhance the welfare of children, and to preserve family life. This part shall be administered and interpreted to provide the greatest possible protection as promptly as possible for children.

(b) It is further the intent of this part to provide for the investigation of child sexual abuse and severe child abuse by the child protection team, and to provide for comprehensive protective services for sexually abused and severely abused children found in the state by requiring that reports of each sexually abused child be made to the department and the office of the district attorney general in an effort to prevent further harm to the child or any other children living in the home and to preserve the family life of the parents and children, to the maximum extent possible, by enhancing the parental capacity for adequate child care.

(c) Except as expressly herein provided, the provisions of this part shall not be construed as repealing any provision of any other statute but shall be supplementary thereto and cumulative thereof.

37-1-402 Reporting of brutality, abuse, neglect or child sexual abuse.

(a)(1) Any person who knows or who, upon the basis of available information, has reasonable cause to suspect that a child is suffering from or has sustained any wound, injury, disability, or physical or mental condition caused by brutality, abuse, or neglect or that a child has been sexually abused, regardless of whether such person knows or believes that the child has sustained any apparent injury as a result of such sexual abuse, and any person who is called upon to render aid to any such child shall report such harm immediately in the manner prescribed in subsection (b).

(2) "Any person" as used in subdivision (a)(1) shall include, but not be limited to any:

(A) Physician, osteopathic physician, medical examiner, chiropractor, nurse or hospital personnel engaged in the admission, examination, care or treatment of persons;

(B) Health or mental health professional other than one listed in subdivision (1);

(C) Practitioner who relies solely on spiritual means for healing;

(D) School teacher or other school official or personnel;

(E) Judge of any court of the state;

(F) Social worker, day care center worker, or other professional child care, foster care, residential or institutional worker;

(G) Law enforcement officer, or

(H) Neighbor, relative, friend or any other person who knows or has reasonable cause to suspect that a child has been sexually abused.

(b)(1) Each report of known or suspected child abuse, brutality or neglect, or child sexual abuse pursuant to this section shall be made immediately, by telephone or otherwise, to the local office of the department, or to the judge having juvenile jurisdiction, or to the office of the sheriff, or the chief law enforcement official of the municipality where the child resides. Each report of known or suspected child sexual abuse occurring in a facility licensed by the department of mental health and developmental disabilities, as defined in § 33-5-402, or any hospital, shall also be made to the local law enforcement agency in the jurisdiction where such offense occurred.

(2) If a law enforcement official or judge becomes aware of known or suspected child abuse, including child sexual abuse, through personal knowledge, receipt of a report or otherwise, such information shall be reported to the department immediately and, where appropriate, the child protection team shall be notified to investigate the report for the protection of the child in accordance with the provisions of this part. Further criminal investigation by such official shall be appropriately conducted in coordination with the team or department to the maximum extent possible.

(3) Reports involving known or suspected institutional child abuse, including child sexual abuse, shall be made and received in the same manner as all other reports made pursuant to this section.

(c) The report shall include, to the extent known by the reporter, the name, address, and age of the child, the name and address of the person responsible for the care of the child, and the facts requiring the report. The report may include any other pertinent information.

(d) Any person required to report or investigate cases of suspected child abuse, including child sexual abuse, who has reasonable cause to suspect that a child died as a result of such abuse shall report such suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report the medical examiner's findings, in writing, to the local law enforcement agency, the appropriate district attorney general, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in § 37-1-408.

(e) If a hospital, clinic, school, or any other organization responsible for the care of children has a specific procedure, approved by the director of the local office of the department, for the protection of children who are victims of brutality, abuse, neglect, or sexual abuse, any member of its staff whose duty to report under this part arises from the performance of services as a member of the staff of the organization may, at the staff member's option, fulfill that duty by reporting instead to the person in charge of the organization or such person's designee who shall make the report.

(f) Every physician or other person who makes a diagnosis of, or treats, or prescribes for any venereal disease set out in § 68-10-101, or venereal herpes and chlamydia, in children thirteen (13) years of age or younger, and every superintendent or manager of a clinic, dispensary or charitable or penal institution, in which there is a case of any of the diseases, as set out in this subsection, in children thirteen (13) years of age or younger shall report the case immediately, in writing on a form supplied by the department of health to that department. If the reported cases are confirmed and if sexual abuse is suspected, the department of health will report the case to the department of children's services. The department of children's services will be responsible for any necessary follow-up.

37-1-403 Retention of custody of child by hospital or physician -- Protective custody.

(a) A law enforcement officer, authorized person of the department, or other authorized person may take a child into custody as provided in part 1 of this chapter.

(b) Any person in charge of a hospital or similar institution or any physician treating a child may keep that child in custody until the next regular weekday session of the juvenile court without the consent of the parents, legal guardian or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such, that continuing the child in the child's place of residence or in the care or custody of the parents, legal guardian, or legal custodian presents an imminent danger to the child's life or physical or mental health.

(c) Any person taking a child into protective custody shall immediately notify the department, whereupon the department shall immediately begin an investigation in accordance with the provisions of § 37-1-405, and shall make every reasonable effort to immediately notify the parents, legal guardian or legal custodian that such child has been taken into protective custody.

(d) If the department determines, according to the criteria set forth in § 37-1-114, that the child should remain in protective custody longer than the next regular weekday session of the juvenile court, it shall petition the court for an order authorizing such custody in the same manner as if the child were placed in a shelter.

(e) If, as a result of an investigation of a report of institutional child abuse, including child sexual abuse, the department removes children under its care from such institution, the department shall notify parents who have children enrolled in such institution on such date of its action. The institution's records shall be utilized to obtain such information. The notification shall be sufficient if it states that children under the care of the department are being removed. If the department validates child abuse, including child sexual abuse in such institution or revokes or suspends the license of a child care agency as a result of child abuse, including child sexual abuse occurring in the agency, the department, in accordance with administrative and due process rules, shall notify the parents of the children accordingly.

(f) The department shall attempt to avoid the placement of a child in an institution whenever possible.

37-1-404 Reference of reported cases to local director -- Notice to judge.

(a)(1) All cases reported to the juvenile court judge or to state or local law enforcement officers shall be referred immediately to the local director of the department for investigation.

(2) If the court or law enforcement officer finds that there are reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from

the child's surroundings and that the child's removal is necessary, appropriate protective action shall be taken under part 1 of this chapter.

(b)(1) The county office of the department or the office of the sheriff or the chief law enforcement official of the municipality where the child resides, upon receipt of a report of harm or sexual abuse, shall give notice of the report to the judge having juvenile jurisdiction where the child resides.

(2) If the case appears to involve severe child abuse as defined in § 37- 1-102, including child sexual abuse, the county director of the department shall immediately notify and consult with the district attorney general where the harm occurred, and the district attorney general may take such action as the district attorney general deems appropriate, including petitioning the court for removal of the child or termination of parental rights in accordance with part 1 of this chapter. Whenever there are multiple investigations, the department, the district attorney general, law enforcement, and, where applicable, the child protection team, shall coordinate their investigations to the maximum extent possible so that interviews with the victimized child shall be kept to an absolute minimum. Reference to the audio or videotape or tapes made by the child protection team or department should be utilized whenever possible to avoid additional questioning of the child.

(3) If, before the investigation is complete, the local office of the department or the local district attorney general determines that immediate removal is necessary to protect the child or other children, or if the district attorney general determines that influence is being exerted on a child victim of sexual abuse or severe child abuse to change the child victim's testimony, the department or the district attorney general may proceed under part 1 of this chapter.

37-1-405 Availability for receiving reports -- Commencement of investigations -- Examination and observation of child -- Reports -- Services provided.

(a) The department shall be capable of receiving and investigating reports of known or suspected child abuse, including child sexual abuse, twenty-four (24) hours a day, seven (7) days a week. The local office shall make a thorough investigation promptly after receiving either an oral or written report of harm. If it appears that the immediate safety or well being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting an investigation, or that the facts otherwise warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In the event the report involves child sexual abuse, the department shall follow the procedures outlined in subsection (b). In child sexual abuse cases, where an investigation does not begin immediately, a child protection investigation shall be commenced within twenty-four (24) hours of receipt of the report.

(b) In cases involving child sexual abuse, the investigation shall be conducted by a child protection team as defined in § 37-1-102 relative to child sexual abuse pursuant to the provisions of § 37-1-406. In the event an immediate investigation has been initiated, the department shall notify the child protection team as soon as possible and the team shall proceed with the investigation in accordance with the provisions of Acts 1985, ch.

478. Other cases of child abuse may be investigated by the team in the discretion of each individual team.

(c) All state, county and local agencies shall give the department or the child protection team access to records in their custody pertaining to the child and shall otherwise cooperate fully with the investigation.

(d) The investigation shall include:

(1) The nature, extent and cause of the harm, including a determination of whether there exists a threat of harm, and the nature and extent of any present or prior injuries or abuse;

(2) The identity of the person responsible for it;

(3) The names and conditions of the other children in the home;

(4) An evaluation of the parents or persons responsible for the care of the child, the home environment, and the relationship of each child to the parents or persons responsible for such child's care;

(5) The identity of any other persons in the same household;

(6) The identity of any other children in the care of any adult residing in the household; and

(7) All other pertinent data.

(e) The investigation shall include a visit to the child's home, an interview with and physical observation of the child, and an interview with the parent(s) or other custodian of the child and any other persons in the child's home. If the investigator deems it necessary, the investigation shall also include medical, psychological or psychiatric examinations of the child and/or any other children in the child's home or under the care of any person alleged to have permitted or caused abuse, neglect or sexual abuse to the child. If the investigator determines, based on a visit to the child's home, observation of and interview with the subject child, and interview with other persons in the child's home, that the report of harm was wholly without substance, the investigator may determine that physical and psychological examinations of the subject child are unnecessary, in which case they will not be required. If admission to the home, school, or any place where the child may be, or permission of the parents or persons responsible for the child's care for the physical and psychological or psychiatric examinations cannot be obtained, the juvenile court, upon cause shown, shall order the parents or person responsible for the care of the child or the person in charge of any place where the child may be, to allow entrance for the interview, examination, and investigation. If the report of harm indicates that the abuse, neglect or sexual abuse occurred in a place other than the child's home, then, in the discretion of the investigator, the investigation may include a visit to the location where the incident occurred or a personal interview with the child and the parents or other custodians in another location instead of a visit to the child's home.

(f) Any person required to investigate cases of suspected child abuse, including child sexual abuse, may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report and of any objects or conditions in the

child's home or surroundings which could have caused or contributed to the harm to the child. If the condition of the child or the nature of the child's injuries indicate a need for immediate medical examination or treatment, the investigator may take or cause the child to be taken for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, legal guardian or legal custodian. Any licensed physician who, based on information furnished by the investigator, the parents or other persons having knowledge of the situation, and/or the child, or on personal observation of the child, suspects that an injury was the result of child abuse or that a child has been sexually abused, may authorize appropriate examinations to be performed on the child without the consent of the child's parent, legal guardian or legal custodian.

(g) Any photograph or report on examinations made or x-rays taken pursuant to this section, or copies thereof, shall be sent to the department as soon as possible, at which point such records shall be available to the members of the child protection team. All state, county and local agencies shall give the team or the department access to records in their custody and shall otherwise cooperated fully with the investigation.

(h) At the initial investigation of child ABUSE, including child sexual abuse, by the department and/or the child protection team, and at any subsequent investigations as deemed appropriate by the investigator and/or the team, an audio or videotape recording may be taken of the traumatized victim. The video recording shall be taken for the purpose of indicating the child's physical or mental condition at the time the report is investigated and shall be made available for future reference and for utilization as provided in this part. A videotape made when a justifiable suspicion of sexual abuse exists, must meet the standards as established by § 24-7-117 and shall be admissible as evidence.

(i) The investigator shall interview the child outside the presence of the parent(s) or other persons allegedly responsible for the harm and, wherever possible, shall interview the child on a neutral setting other than the location where the alleged abuse occurred.

(j) No later than sixty (60) days after receiving the initial report, the department or team in cases of child sexual abuse or the department in all other cases shall determine whether the reported abuse was indicated or unfounded and report its findings to the department's abuse registry. Each member of the team shall be provided with a copy of the report in any case investigated by the team. In any case investigated solely by the department, the department shall make a complete written investigation report, including its recommendation, to the juvenile court. The district attorney general shall also be provided a copy of any report in all cases where the investigation determines that the report was indicated. Further proceedings shall be conducted pursuant to part 1 of this chapter, as appropriate.

(k) If the department or team in cases of child sexual abuse or the department in all other cases determines that the protection of the child so requires, the department shall provide or arrange for services necessary to prevent further abuse, to safeguard and

enhance the welfare of children, and to preserve family life. Such services may include provision for protective shelter, to include room and board; medical and remedial care; day care; homemaker; caretaker; transportation; counseling and therapy; training courses for the parents or legal guardian; and arranging for the provision of other appropriate services. All such services shall be provided when appropriate within the limits of available resources. These services shall first be offered for the voluntary acceptance by the parent or other person responsible for the care of the child unless immediate removal is needed to protect the child. At any point if the department or team in cases of child sexual abuse or the department in all other cases deems that the child's need for protection so requires, it may proceed with appropriate action under part 1 of this chapter.

(l) If the investigator, as a result of the investigation, determines that there is cause to classify the report of severe abuse as indicated rather than unfounded, the team in cases of child sexual abuse or the department in all other cases may recommend that criminal charges be filed against the alleged offender. Any interested person who has information regarding the offenses may forward a statement to the district attorney general as to whether such person believes prosecution is justified and appropriate. Within fifteen (15) days of the completion of the district attorney general's investigation of a report of severe abuse, the district attorney general shall advise the department or team whether or not prosecution is justified and appropriate, in the district attorney general's opinion, in view of the circumstances of the specific case.

37-1-406 Child protection teams -- Investigations -- Services.

(a)(1) The department shall coordinate the services of child protection teams. At least one (1) child protection team shall be organized in each county. The district attorney general of each judicial district shall, by January 15 of each year, report to the judiciary committees of the senate and house of representatives on the status of the teams in the district attorney general's district as required by this section, and the progress of the child protection teams which have been organized in the district attorney general's district. The department shall, with the cooperation of all statutorily authorized members of the child protection team, establish a procedure and format for data collection. The procedure and format, including an implementation plan with timelines, shall be cooperatively developed and presented to the judiciary committees of the senate and house of representatives, the house children and family affairs committee and the select committee on children and youth on or before January 15, 2000. The procedure and format developed shall include at a minimum the following information:

- (A) The number of reports received for investigation by type (i.e., sexual abuse, serious physical abuse, life-threatening neglect);
- (B) The number of investigations initiated by type;
- (C) The number of final dispositions of cases obtained in the current reporting year by type of disposition as follows:
 - (i) Unsubstantiated, closed, no service;
 - (ii) Unsubstantiated, referred for non-custodial support services;

- (iii) Substantiated, closed, no service;
- (iv) Substantiated, service provided, no prosecution;
- (v) Substantiated, service provided, prosecution, acquittal; or
- (vi) Substantiated, service provided, prosecution, conviction.

(D) Age, race, gender, and relationship to the victim of perpetrators identified in cases which are included in (a)(1)(C)(iii) - (vi); and

(E) The type and amount of community-based support received by child protection teams through linkages with other local agencies and organizations and through monetary and/or in-kind donations.

(F) Such data shall be reported to the judiciary committees of the senate and the house of representatives, the house children and family affairs committee and the select committee on children and youth by January 15 of each year, along with a progress report on the teams and any recommendations for enhancement of the child sexual abuse plan and program.

(2) Each team shall be composed of one (1) person from the department, one (1) representative from the office of the district attorney general, one (1) juvenile court officer or investigator from a court of competent jurisdiction, and one (1) properly trained law enforcement officer with countywide jurisdiction from the county where the child resides or where the alleged offense occurred. The team may also include a representative from one (1) of the mental health disciplines. It is in the best interest of the child that, whenever possible, an initial investigation shall not be commenced unless all four (4) disciplines are represented. An initial investigation may, however, be commenced if at least two (2) of the team members are present at the initial investigation. In those geographical areas in which a child advocacy center meets the requirements of § 9-4-213(a) or (b), child advocacy center directors, or their designees, shall be members of the teams under this part for the purposes of provision of services and functions established by § 9-4-213 or delegated pursuant to that section. In such event, child advocacy center directors, or their designees, may access and generate all necessary information, which shall retain its confidential status, consistent with § 37-1-408.

(3) It is the intent of the general assembly that the child protection investigations be conducted by the team members in a manner which not only protects the child but which also preserves any evidence for future criminal prosecutions. It is essential, therefore, that all phases of the child protection investigation be appropriately conducted and that further investigations, as appropriate, be properly conducted and coordinated.

(b)(1) The department shall convene the appropriate team when a report of child sexual abuse or suspected severe child abuse has been received. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report all suspected or actual cases of child abuse, including child sexual abuse. The role of the teams shall be to conduct child protection investigations of reported child sexual abuse and severe child abuse and to support and provide services to victims of such abuse upon referral as deemed by the teams to be necessary and appropriate for such children.

(2) For each report of child sexual abuse or severe child abuse it receives, the department shall immediately notify the child protection investigation team which shall commence an on-site child protection investigation. The team shall:

(A) Determine the composition of the family or household, including the name, address, age, sex and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents or other persons responsible for the child's welfare; and any other adults in the same household;

(B) Determine whether there is any indication that any child in the family or household is sexually abused or a victim of severe child abuse, including a determination of harm or threatened harm to each child; the nature and extent of present or prior injuries, or abuse, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse;

(C) Determine the immediate and long-term risk to each child if the child remains in the existing home environment; and

(D) Determine the protective, treatment and ameliorative services necessary to safeguard and ensure the child's well being and development and, if possible, to preserve and stabilize family life. The team shall seek to interview the child in a neutral setting, other than where the alleged abuse occurred, whenever possible.

(3) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

(A) Child sexual abuse or severe child abuse has occurred; or

(B) An observable injury or medically diagnosed internal injury occurred as a result of the sexual abuse or severe child abuse;

the department shall orally notify the team, the appropriate district attorney general and the appropriate law enforcement agency whose criminal investigations shall be coordinated, whenever possible, with the child protection team investigation. In all cases, the team and the department shall make a full written report to the district attorney general within three (3) days of the oral report. If, as a result of an investigation, there is cause to believe a violation of title 39, chapter 17, part 10 has occurred, an appropriate report shall be filed by the district attorney general requesting an investigation by the Tennessee bureau of investigation. If independent criminal investigations are made, interviews with the victimized child shall be kept to an absolute minimum and, whenever possible, reference to the videotape or tapes made by the child protection teams should be utilized.

(4) As a result of its investigation, the team may recommend that criminal charges be filed against the alleged offender. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the district attorney general as to whether prosecution is warranted and appropriate. Within fifteen (15) days of the completion of the district attorney general's investigation, the district attorney general shall advise the department and the team whether or not prosecution is justified and appropriate in the district attorney general's opinion in view of the circumstances of the specific case.

(c)(1) The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that the team shall be capable of providing, to the extent funds are specifically appropriated therefore, or by referral shall be capable of obtaining for the protection of the child, include, but are not limited to, the following:

- (A) Telephone consultation services in emergencies and in other situations;
- (B) Medical evaluation related to the sexual abuse or severe child abuse;
- (C) Such psychological and psychiatric diagnosis and evaluation services for the child, siblings, parent or parents, guardian or guardians, or other care givers, or any other individual involved in a child sexual abuse or severe child abuse case, as a child protection team may determine to be needed;
- (D) Short-term psychological treatment. It is the intent of the general assembly that the department provide or refer a child whose case has been validated by the department, and the child's family, for short-term psychological treatment before the department may close its case. Such short-term treatment shall be limited to no more than six (6) months' duration after treatment is initiated, except that the commissioner may authorize such treatment for individual children beyond this limitation if the commissioner deems it appropriate;
- (E) Expert medical, psychological and related professional testimony in court cases;
- (F) Case staffings to develop, implement and monitor treatment plans for a child whose case has been validated by the department. In all such case staffings, consultations, or staff activities involving a child, at least one (1) member of the team involved in the initial investigation shall continue to monitor the progress and status of the child whenever possible and within the same geographic area; and
- (G) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(2) In all instances where a child protection team is providing or has obtained by referral certain services to sexually abused children or victims of severe child abuse, other offices and units of the department shall avoid duplicating the provision of those services.

37-1-407 Child abuse review teams.

(a) The department shall make available to each community a multi-disciplinary advisory team to be known as the child abuse review team.

(b)(1) The team shall be composed of at least the following persons:

- (A) A representative of the department of children's services who shall serve as team coordinator;
- (B) A physician;
- (C) A psychologist or psychiatrist; and
- (D) A social worker.

(2) A representative of the local juvenile court may participate if desired by the juvenile judge, and a representative of the local law enforcement agency may participate if requested by the district attorney general after notification under § 37-1-405(j).

(3) The department shall choose its representative and all other persons on the team, with the exception of the representatives of the local law enforcement agency and the local juvenile court who shall be chosen by the chief officer of their respective operating units.

(c) The team shall review all cases in which the investigation of the department has resulted in a finding of child abuse in its report to the juvenile court. In reviewing the cases, the team shall serve as a diagnostic and prognostic service for the department. The team may be called upon to review other cases when deemed appropriate by the department. The team shall assist the department in its plans for treatment for the child and for the parents or person responsible for the care of the child.

(d) Upon completion of the review of each case, the team shall make a written report of its deliberations and shall submit this report to the director of the local department office.

(e) The department may, within limits of the available resources, purchase the services of individuals on the review teams whose salaried positions with state or local government do not already fall within the role and responsibility of the team.

37-1-408 Reports confidential -- Penalty for violation -- Authorized access to information.

(a) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records concerning reports of child abuse, including child sexual abuse, including files, reports, records, communications and working papers related to investigations or providing services; video tapes; reports made to the abuse registry and to local offices of the department; and all records generated as a result of such processes and reports, shall be confidential and exempt from other provisions of law, and shall not be disclosed except as specifically authorized by title 37, chapter 5, part 5, and the provisions of this part.

(b)(1) Reports of harm made under this part and the identity of the reporter are confidential except when the juvenile court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to an indictment or conviction.

(2) Except as otherwise provided in this part, or as may be ordered by the juvenile court as herein provided, the name of any person reporting child abuse, including child sexual abuse, shall not be released to any person, other than employees of the department or other child protection team members responsible for child protection services, the abuse registry, or the appropriate district attorney general upon subpoena of the Tennessee bureau of investigation, without the

written consent of the person reporting. Such person's identity shall be irrelevant to any civil proceeding and shall, therefore, not be subject to disclosure by order of any court. This shall not prohibit the subpoenaing of a person reporting child abuse, including child sexual abuse, when deemed necessary by the district attorney general or the department to protect a child who is the subject of a report; provided, that the fact that such person made the report is not disclosed.

(3) Any person who reports a case of child sexual abuse may, at the time the person makes the report, request that the department notify such person that a child protective investigation occurred as a result of the report. The department shall mail such a notice to the reporter within ten (10) days of the completion of the child protective investigation.

(c) Except as otherwise provided in this part, it is unlawful for any person, except for purposes directly connected with the administration of this part, to disclose, receive, make use of, authorize or knowingly permit, participate in, or acquiesce in the use of any list or the name of, or any information concerning, persons receiving services pursuant to this part, or any information concerning a report or investigation of a report of harm under this part, directly or indirectly derived from the records, papers, files or communications of the department, or divisions thereof, or other entities authorized by law to assist the department when such information was acquired in the course of the performance of official duties.

(d) Disclosure may be made to persons and entities directly involved in administration of this part, including:

(1) Department employees, medical professionals, and contract or other agency employees who provide services, including those from child advocacy centers, to children and families; and

(2) The attorney or guardian ad litem for a child who is the subject of the records. Information shared with such persons and entities does not lose its character as confidential.

(e) In addition to such other purposes as may be directly connected with the administration of this part, access to such records, excluding the name of the reporter which shall be released only as provided in subsection (b), shall be granted to the following persons, officials, or agencies for the following purposes:

(1) A law enforcement agency investigating a report of known or suspected child abuse, including child sexual abuse;

(2) The district attorney general of the judicial district in which the child resides or in which the alleged abuse occurred;

(3) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business;

(4) Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data and the department has given written approval;

(5) A court official, probation and parole officer, designated employee of the department of correction or board of probation and parole or other similarly situated individual charged with the responsibility of preparing information to be presented in any administrative or judicial proceeding concerning any individual charged with or convicted of any offense involving child abuse or neglect or child sexual abuse.

(6) An attorney or next friend who is authorized to act on behalf of the child, who is the subject of the records, for the purpose of recovering damages or other remedies authorized by law in a civil cause of action against the perpetrator or other person or persons who may be responsible for the actions of the perpetrator; and

(7) An attorney or next friend who is authorized to act on behalf of another child, who has been the victim of other abuse by the same perpetrator, for the purpose of recovering damages or other remedies authorized by law in a civil cause of action against the perpetrator or other person or persons who may be responsible for the actions of the perpetrator against such other child; provided however, that:

(A) The name and identity of such other child shall be revealed only to the attorney or next best friend of such other child, to the parties and to their respective counsel in the civil cause of action in which such damages or other remedies are sought, and to the trial judge who presides over the action;

(B) An appropriate protective order must be entered prior to such disclosure; and

(C) Before any attempt is made to introduce into evidence in the civil cause of action either the records or information obtained from the records, written consent must be obtained from:

(i) Each parent or guardian having sole or joint custody of such other child, if the child has not yet attained the age of majority; or,

(ii) The former child, if he or she has now attained the age of majority.

(f) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the child, the former child, if he or she has now attained the age of majority, or the person perpetrating the child abuse, including child sexual abuse.

(g) The department may confirm whether a child abuse or neglect investigation has been commenced, including an investigation of child sexual abuse, but may not divulge, except as permitted under this part, any details about the case, including, but not limited to, the name of the reporter, the alleged victim, or the alleged perpetrator.

(h) The department shall adopt such rules as may be necessary to carry out the following purposes:

(1) The establishment of administrative and due process procedures for the disclosure of the contents of its files and the results of its investigations for the purpose of protecting children from child sexual abuse, physical abuse, emotional abuse, or neglect; and

(2) For other purposes directly connected with the administration of this chapter, including, but not limited to, cooperation with schools, child care agencies, residential and institutional child care providers, child protection agencies,

individuals providing care or protection for the child, medical and mental health personnel providing care for the child and the child's family and the perpetrator of any form of child abuse or neglect, law enforcement agencies, the judicial and correctional systems, and for cooperation with scientific and governmental research on child abuse and neglect.

(i) For purposes directly connected with the administration of this part, the department may disclose any relevant information to the court, administrative board or hearing officer, the parties, or their legal representatives in any proceeding which may be brought in any court, or before any administrative board or hearing officer, for the purpose of protecting a child or children from child abuse or neglect or child sexual abuse. In the event of any disagreement between the department and any other parties as to what information should be disclosed, the court, administrative board or hearing officer may enter an order allowing access to any information which it finds necessary for the proper disposition of the case. The court, administrative board or hearing officer may order any information disclosed in such proceeding to be placed and kept under seal and not to be open to public inspection to the extent it finds it necessary to protect the child. This provision shall not be construed to allow any person to gain access to any identifying information about a child who is not the subject of the proceeding.

(J) A violation of this section in regards to child abuse is a Class B misdemeanor. A violation of the section in regards to child sexual abuse is a Class A misdemeanor.

37-1-409 Immunity from civil or criminal liability for reporting abuse -- Damages for employment change because of making report.

(a)(1) IF a health care provider makes a report of harm, as required by the provisions of § 37-1-402; AND IF the report arises from an examination of the child performed by the health care provider in the course of rendering professional care or treatment of the child; THEN The health care provider shall be not liable in any civil or criminal action that is based solely upon:

(A) The health care provider's decision to report what he or she believed to be harm;

(B) The health care provider's belief that reporting such harm was required by law; or

(C) The fact that a report of harm was made.

(2) As used in this subsection, "health care provider" means any physician, osteopathic physician, medical examiner, chiropractor, nurse, hospital personnel, mental health professional or other health care professional;

(3) Nothing in this subsection shall be construed to confer any immunity upon a health care provider for a criminal or civil action arising out of the treatment of the child about whom the report of harm was made.

(4)(A) IF absolute immunity is not conferred upon a person pursuant subdivision (1); AND IF, acting in good faith, the person makes a report of harm, as required by the provisions of § 37-1-402; THEN The person shall not be liable in any civil or criminal action that is based solely upon:

- (i) The person's decision to report what the person believed to be harm;
- (ii) The person's belief that reporting such harm was required by law; or
- (iii) The fact that a report of harm was made.

(B) Because of the overriding public policy to encourage all persons to report the neglect of or harm or abuse to children, any person upon whom good faith immunity is conferred pursuant to this subdivision shall be presumed to have acted in good faith in making a report of harm.

(5) No immunity conferred pursuant to this subsection shall attach if the person reporting the harm perpetrated or inflicted the abuse or caused the neglect.

(6) A person furnishing a report, information or records as required or authorized under the provisions of this part shall have the same immunity and the same scope of immunity with respect to testimony such person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by the provisions of this subsection upon such person for making the report of harm.

(7) If the person furnishing a report, information or records during the normal course of such person's duties as required or authorized under the provisions of this part is different than the person originally reporting the harm, then the person furnishing such report, information or records shall have the same immunity and the same scope of immunity with respect to testimony such person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by the provisions of this subsection upon the person who made the original report of harm.

(8) Any other person, official, or institution participating in good faith in any act authorized or required by this part shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

(b) Any person reporting under the provisions of this part shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes a detrimental change in the employment status of the reporting party by reason of the report.

37-1-410 Evidentiary privileges not applicable to child abuse cases.

The privileged quality of communication between husband and wife, as preserved in § 24-1-201, and between any professional person and the professional person's patient or client, including the psychiatrist-patient privilege as set forth in § 24-1-207 and the psychologist-patient privilege as set forth in § 63-11-213, and any other privileged communication except that between attorney and client, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected child abuse, including child sexual abuse, and shall not constitute grounds for failure to report as required by this part, failure to cooperate with the department and/or child protection team in their activities pursuant to this part, or failure to give evidence in any judicial

proceeding relating to child abuse, including child sexual abuse. Such privileges shall not be a ground for excluding evidence regarding harm or the cause of harm to a child in any dependency and neglect proceeding resulting from a report of such harm under §37-1-402 or a criminal prosecution for severe child abuse.

37-1-411 Violation of duty to report -- Power of juvenile court -- Penalty.

(a) Any person who knowingly fails to make a report required by § 37-1-402 or who knowingly prevents another person from doing so, commits a Class A misdemeanor.

(b) A juvenile court having reasonable cause to believe that a person is guilty of violating this section may have the person brought before the court either by summons or by warrant. If the defendant pleads not guilty, the juvenile court judge shall bind the defendant over to the grand jury. If the defendant pleads guilty and waives, in writing, indictment, presentment, grand jury investigation, and trial by jury, the juvenile court judge shall sentence the defendant under this section with the fine limited to fifty dollars (\$50.00).

37-1-412 False reporting of child sexual abuse -- Penalty.

Any person who either verbally or by written or printed communication knowingly and maliciously reports, or causes, encourages, aids, counsels or procures another to report, a false accusation of child sexual abuse commits a Class E felony.

37-1-413 Persons working with children -- Fingerprinting -- Release of investigative and criminal records.

(a) A religious, charitable, scientific, educational, athletic or youth service institution or organization may require any person, who applies to work with children as a volunteer or as a paid employee, to do one (1) or more of the following:

(1) Agree to the release of all investigative records to such religious, charitable, scientific, educational, athletic, or youth service institution or organization for examination for the purpose of verifying the accuracy of criminal violation information contained on an application to work for such institution or organization;

(2) Supply fingerprint samples, submit to a criminal history records check to be conducted by the Tennessee bureau of investigation; or

(3) Attend a comprehensive youth protection training program which includes adult training on recognition, disclosure, reporting and prevention of abuse and submit to character, employment, education and reference checks.

(b) Any costs incurred by the Tennessee bureau of investigation in conducting such investigation of applicants shall be paid by the religious, charitable, scientific, educational, or athletic institution or organization requesting such investigation and information. Payment of such costs are to be made in accordance with the provisions of § 38-6-103.

SECTION 3. Tennessee Code Annotated, Title 37, Chapter 1, Part 6 is amended by deleting the entire Part and substituting instead the following:

37-1-601 Prevention of child sexual abuse deemed priority of state -- Comprehensive approach -- Purpose and construction of part.

The incidence of child sexual abuse has a tremendous impact on the victimized child, siblings, family structure, and inevitably on all citizens of this state, and has caused the general assembly to determine that the prevention of child sexual abuse shall be a priority of this state. To further this end, it is the intent of the general assembly that a comprehensive approach for the detection, intervention, prevention and treatment of child sexual abuse be developed for the state and that this planned, comprehensive approach be used as a basis for funding.

37-1-602 Comprehensive state plan.

(a) The department shall develop a state plan which encompasses and complies with the scope of all provisions of this part for the detection, intervention, prevention and treatment of child sexual abuse. The department of education and the state board of education shall participate and fully cooperate in the development of the state plan. Furthermore, appropriate state and local agencies and organizations shall be provided an opportunity to participate in the development of the state plan. Appropriate groups and organizations shall include, but not be limited to, community mental health centers; the juvenile courts; the school boards of the local school districts; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multi-disciplinary child protection teams; child care centers; and law enforcement agencies. The state plan to be provided to the general assembly, the appropriate committees and the governor shall include, as a minimum, the information required of the various groups in subsection

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

(1) The department of children's services shall establish a task force composed of representatives from the department of mental health and developmental disabilities, the commission on children and youth created by § 37-3-102, a child abuse agency as defined in § 37-5-501, the interdepartmental coordination council appointed pursuant to § 37-3-108 [repealed], a treatment resource as defined in § 33-1-101, the child abuse review teams created by § 37-1-407, and a local child service agency. Representatives of the departments of children's services, education, health, the Tennessee bureau of investigation, district attorneys general conference, Tennessee council of juvenile and family court judges, and local law enforcement agencies shall serve as ex officio members of the task force. The task force shall be responsible for:

(A) Developing a plan of action for better coordination and integration of the goals, activities, and funding of the department pertaining to the detection,

intervention, prevention, and treatment of child sexual abuse in order to maximize staff and resources, including the effective utilization of licensure personnel in determining whether children are properly cared for and protected by the child care agencies licensed by the department of children's services or human services. The department shall develop ways not only to inform and instruct all personnel in the child care agencies in the detection, intervention, prevention and treatment of child sexual abuse, but shall develop ways for licensure personnel at least annually to require that all such agencies present a prevention program to the children enrolled in and cared for by the agency. Licensing staff shall provide training to such agencies if needed to assist them in presenting such a program and shall review and approve the materials to be presented. The department shall formulate an effective and efficient method for updating files of victims of child sexual abuse. The plan for accomplishing this end shall be included in the comprehensive state plan;

(B) Preparing the state plan for submission to the members of the general assembly and the governor. Such preparation shall include the cooperative plans as provided in this section and the plan of action for coordination and integration of departmental activities into one (1) comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change; and

(C) Working with the specified agency in fulfilling the requirements of subdivisions (b)(2), (3), (4), (5) and (6);

(2) The department of education and the state board of education and the department of children's services shall work together in developing ways to inform and instruct appropriate school personnel and children in all school districts in the detection, intervention, prevention and treatment of child sexual abuse and in the proper action that should be taken in a suspected case of child sexual abuse. The plan for accomplishing this end shall be included in the comprehensive state plan;

(3) The departments of education and children's services, and the state board of education, shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multi-disciplinary approach on the detection, intervention, prevention and treatment of child sexual abuse. The curriculum materials shall be geared toward a sequential program of instruction at progressional levels for kindergarten (K) through grade six (6). Strategies for utilizing the curriculum shall be included in the comprehensive plan.

(4) The Jerry F. Agee Tennessee Law Enforcement Academy, the Tennessee peace officer standards and training commission, and the department of children's services shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child sexual abuse and in the proper action that should be taken in a suspected case of child sexual abuse:

(A) Guidelines shall be prepared establishing a standard procedure which may be followed by police agencies in the investigation of cases involving sexual abuse of children, including police response to, and treatment of, victims of such crimes;

(B) The course of training leading to the basic certificate issued by the Tennessee peace officer standards and training commission shall include adequate instruction in the procedures described in subdivision (b)(4)(A) and shall be included as a part of the in-service training requirement to be eligible for the salary supplement authorized in § 38-8-111;

(C) A course of study pursuant to such procedures for the training of specialists in the investigation of child sexual abuse cases shall be implemented by the Jerry F. Agee Tennessee Law Enforcement Training Academy. Officers assigned as investigation specialists for these crimes shall successfully complete their training;

(D) The peace officers standards and training commission may authorize the certification of officers under this section if the officers have received training meeting the criteria established in subdivision (b)(4)(A) from any other approved training course at sites other than the Jerry F. Agee Tennessee Law Enforcement Training Academy; and

(E) It is the intent of the general assembly to encourage the establishment of child sex crime investigation units in sheriffs' departments and police agencies throughout the state, which units shall include investigating crimes involving sexual abuse of children. The plan for accomplishing this end shall be included in the comprehensive state plan;

(5) The department of children's services shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect, intervene in, prevent and treat child sexual abuse, and in the proper action that should be taken in a suspected case of child sexual abuse. Such plan shall include a method for publicizing and notifying the general public of the resources and agencies available to provide help and services for victimized children and their families. The plan for accomplishing this end shall be included in the comprehensive state plan; and

(6) The department of children's services and the judicial council shall work together in developing a mechanism to inform and instruct judges with juvenile, divorce and criminal jurisdiction in the detection, intervention, prevention and treatment of child sexual abuse and in the proper action that should be taken in a known or suspected case of child sexual abuse. The plan for accomplishing this end shall be included in the comprehensive state plan.

(c)(1) All budget requests submitted by the department of children's services, the department of education, or any other agency to the general assembly for funding of efforts for the detection, intervention, prevention, and treatment of child sexual abuse shall be based on the state comprehensive plan developed pursuant to this section.

(2) The department of children's services shall readdress the plan one (1) year following its initial presentation and at least biennially thereafter, and shall make necessary revisions. No later than January 31, 1987, and no later than January 31 of every uneven year thereafter, such revisions shall be submitted to the government operations committees of both houses of the general assembly and to the governor.

37-1-603 Duties of department of children's services -- Cooperation with department -- Publicity and education program.

(a) The department shall:

(1) Have prime responsibility for strengthening and improving child sexual abuse detection, prevention and treatment efforts;

(2) Seek and encourage the development of improved or additional programs and activities, the assumption of prevention and treatment responsibilities by additional agencies and organizations, and the coordination of existing programs and activities;

(3) To the fullest extent possible, cooperate with and seek cooperation of all appropriate public and private agencies, including health, education, social services, and law enforcement agencies, and courts, organizations, or programs providing or concerned with children's services related to the prevention, detection, intervention or treatment of child sexual abuse; and

(4) Provide ongoing protective, treatment and ameliorative services to, and on behalf of, children in need of protection to safeguard and ensure their well-being and, whenever possible, to preserve and stabilize family life.

(b) All state, county, and local agencies have a duty to give such cooperation, assistance, and information to the department as will enable it to fulfill its responsibilities.

(c) The department shall conduct a continuing publicity and education program for staff and officials required to report and any other appropriate persons to encourage the fullest degree of reporting of suspected child sexual abuse. The program shall include, but not be limited to, information concerning the responsibilities, obligations, and powers provided under this part; the methods for diagnosis of child sexual abuse; and the procedures of the child protective service program, the juvenile court, and other duly authorized agencies. In developing training programs for staff, the department shall place emphasis on pre-service and in-service training for single intake, protective services, and foster care staff which would include skills in diagnosis and treatment of child sexual abuse and procedures of the child protective system and judicial process.

37-1-604 Rules and regulations.

The department may promulgate necessary rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, in furtherance of the provisions of this part.

SECTION 4. Tennessee Code Annotated, Section 37-1-149 is amended by deleting the entire section by substituting instead the following:

37-1-149 Guardian ad litem – Special advocate – Appointment -- Reimbursement of costs and expenses.

(a)(1)The court at any stage of a proceeding under this part, on application of a party or on its own motion, shall appoint a guardian ad litem for a child who is a party to the proceeding if such child has no parent, guardian or custodian appearing on such child's behalf, or if such parent's, guardian's or custodian's interests conflict with the child's, or in any other case in which the interests of the child require a guardian.

(2)The court, in any proceeding under this part resulting from a report of harm or an investigation report under §§ 37-1-401—37-1-410, shall appoint a guardian ad litem for the child who was the subject of the report. A party to the proceeding or the party's employee or representative shall not be appointed.

(3) A guardian ad litem shall be appointed to represent the child in any child sexual abuse civil or juvenile judicial proceeding and in general sessions or criminal court at the discretion of the court.

(b)(1)The court may also appoint a nonlawyer special advocate trained in accordance with the standards of the Tennessee Court Appointed Special Advocates Association (CASA) to act in the best interest of a child before, during and after court proceedings.

(2)The court-appointed special advocate shall conduct such investigation and make such reports and recommendations pertaining to the welfare of a child as the court may order or direct.

(c)Any guardian ad litem or special advocate so appointed by the court shall be presumed to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed while acting within the scope of such appointment.

(d)In those cases in which the parents are financially able, the court may order such parent or parents to reimburse the court to the extent of insurance coverage; provided, that the court shall order the perpetrator in all cases, whether such person is a parent or other person, to fully reimburse the court for such expenses, for the cost of provision of guardian ad litem services and any medical and treatment costs resulting from the child abuse, including child sexual abuse. Reimbursement to the individual providing such services shall not be contingent upon successful collection by the court from the parent or parents.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.